

PETITION MAR 27 12:29 PM '08 DPP

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

UNITED STATES OF AMERICA,)
) Case No. CR 08-00060-BR
Plaintiff,)
) PETITION TO ENTER PLEA
vs.) OF GUILTY, CERTIFICATE
CALIFORNIA SHELLFISH COMPANY INC.,) OF COUNSEL, AND ORDER
dba Point Adams Packing Company,) ENTERING PLEA
)
Defendant.)

Ronald H. Hoevet, attorney for California Shellfish Company, Inc., represents to the Court:

1. My name is Ronald H. Hoevet, the attorney for California Shellfish Company, Inc.

I have been authorized by a resolution of the Board of Directors of California Shellfish Company (“California Shellfish”), that was ratified by its shareholders, to waive indictment and plead guilty to the Information.

2. xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx.

3. I have discussed the case fully with David Zeller, a Director and the Chief Financial Officer of California Shellfish. Mr. Zeller and I have received a copy of the Information. Mr. Zeller has read the Information and I have discussed it with him. I have counseled and advised David Zeller concerning the nature of each charge, any lesser-included offenses, and the possible defenses that California Shellfish might have in this case. Mr. Zeller has been advised and understands that the elements of the charges alleged against California Shellfish to which California Shellfish is

pleading "GUILTY" are as follows:

(1) The defendant, by and through its actions or its agents and/or employees, discharged from a point source; (2) a pollutant; (3) into a navigable water of the United States; (4) the defendant failed to meet a condition or limitation of a NPDES permit authorizing the corporation to discharge the pollutant; (5) the defendant acted knowingly.

California Shellfish had a full and adequate opportunity to disclose to me all facts known that relate to the case.

4. I know that if California Shellfish pleads "GUILTY," I will have to answer any questions that the judge asks me about the offenses to which California Shellfish is pleading guilty. I also know that if I answer falsely, under oath, my answers could be used against me in a prosecution for perjury or false statement.

5. I am not under the influence of alcohol or drugs. I am not suffering from any injury, illness or disability affecting my thinking or my ability to reason except as follows: None. I have not taken any drugs or medications within the past seven (7) days except as follows: None.

7. I know that California Shellfish may plead “NOT GUILTY” to any crime charged against it. I know that if California Shellfish pleads “NOT GUILTY” the Constitution guarantees it:

- a. The right to a speedy and public trial by jury, during which California Shellfish will be presumed to be innocent unless and until California Shellfish is proven guilty by the government beyond a reasonable doubt and by the unanimous vote of twelve jurors;
- b. The right to have the assistance of an attorney at all stages of the proceedings;
- c. The right to use the power and process of the court to compel the production of evidence, including the attendance of witnesses in California Shellfish’s favor;
- d. The right to see, hear, confront, and cross-examine all witnesses called to testify against California Shellfish;
- e. bbbbbbbbbb; and
- f. bbbbbbbbbb; and

8. I know that if California Shellfish pleads “GUILTY” there will be no trial before either a judge or a jury, and that California Shellfish will not be able to appeal from the judge’s denial of any pretrial motions California Shellfish may have filed concerning matters or issues not related to the court’s jurisdiction.

9. In this case California Shellfish is pleading “GUILTY” under Rule 11(c)(1)(B). I have explained to Mr. Zeller the effect of California Shellfish’s plea under Rule 11(c)(1)(B) to be as follows:

California Shellfish's pleas of guilty are under Rule 11(c)(1)(B); therefore, although the judge will consider the recommendations and agreements of both the prosecution and defense attorneys concerning sentencing, the judge is not obligated to follow those recommendations or agreements. If the judge imposes a sentence different from what California Shellfish expected to receive under the terms of its Plea Agreement with the prosecutor, California Shellfish does not have a right to withdraw its plea.

10. I know the maximum sentence which can be imposed upon California Shellfish for the crimes to which California Shellfish is pleading guilty is set forth in paragraph 3 of the plea agreement: "a term of probation of at least one year and not more than three years, and a maximum fine of \$50,000 per day of violation, \$500,000, or twice the gross gain or loss resulting from the unlawful conduct, and a special assessment of \$400."

11. I know that the judge, in addition to any other penalty, will order a mandatory special assessment as provided by law in the amount of \$400 for conviction on the one count information.

13. I have discussed with Mr. Zeller the Sentencing Factors set forth in paragraph 7 of the plea agreement. I know that the Guidelines are advisory, not mandatory. I also know the sentencing judge, in determining the particular sentence to be imposed, must consider those factors set forth in Title 18, United States Code, Section 3553(a), including but not limited to: the nature and circumstances of the offense, California Shellfish's own history and characteristics, the goals of sentencing (punishment, deterrence, protection and rehabilitation) and the sentencing range established by the advisory Guidelines. If I or any other person has calculated a guideline range for California Shellfish, I know that this is only a prediction and advisory and that it is the judge who

makes the final decision as to what the guideline range is and what sentence will be imposed. I also know that a judge may not impose a sentence greater than the maximum sentence referred to in paragraph (10) above.

17. On any fine or restitution in an amount of \$2,500 or more, I know that California Shellfish will be required to pay interest unless that fine or restitution is paid within fifteen (15) days from the date of the entry of judgment.

20. California Shellfish's plea of "GUILTY" is based on a Plea Agreement that it has made with the prosecutor. That Plea Agreement is attached hereto and incorporated herein. I have read the Plea Agreement, and I understand the Plea Agreement.

21. The Plea Agreement contains the only agreement between the United States government and California Shellfish Company. No officer or agent of any branch of government (federal, state or local) or anyone else has promised or suggested that California Shellfish will receive leniency if it pleads "GUILTY" except as stated in the paragraphs 5 and 7 of Plea Agreement. I understand that California Shellfish cannot rely on any promise or suggestion

made to California Shellfish by a government agent or officer which is not stated in writing in the Plea Agreement, or which is not presented to the judge in my presence in open court at the time of the entry of California Shellfish's plea of guilty.

22. California Shellfish's plea of "GUILTY" is not the result of force, threat, or intimidation.

23. I hereby request that the judge accept California Shellfish's plea of "GUILTY" to the following counts: Guilty to the Information.

24. I know that the judge must be satisfied that a crime occurred and that California Shellfish committed that crime before California Shellfish's plea of "GUILTY" can be accepted. With respect to the charges to which California Shellfish is pleading guilty, California Shellfish agrees that it did the following acts and that the following facts are true:

In the District of Oregon, on or about December 2003 and continuing until on or about June 13, 2004, California Shellfish, acting through the General Manager of the Point Adams Packing Company, knowingly allowed a discharge to a water of the United States, from the Point Adams Packing Company's Fish processing facility outfall point source, of wastewater from the processing of chicken carcasses by its lessee under a permit that only allowed the discharge of wastewater from fish processing.

25. I offer California Shellfish Company's plea of "GUILTY" freely and voluntarily and of my own accord and with a full understanding of the allegations set forth in the Information, and with a full understanding of the statements set forth in this Petition and in the Certificate of California Shellfish Company's attorney that is attached to this Petition.

SIGNED by me after reading all of the foregoing pages and paragraphs of this Petition on
this 27th day of March, 2008.



Ronald H. Hoevet, OSB #75174
Authorized Representative of
California Shellfish Company

CERTIFICATE OF COUNSEL

The undersigned, as attorney for California Shellfish Company, hereby certifies:

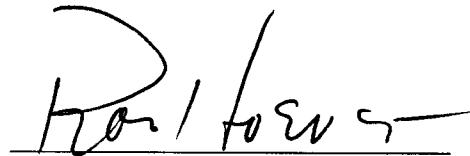
1. I have fully explained to David Zeller, a Director and Chief Financial Officer of California Shellfish Company, the allegations contained in the Information in this case, any lesser-included offenses, and the possible defenses which may apply in this case.

2. I have personally examined the attached Petition To Enter Plea of Guilty And Order Entering Plea, explained all its provisions to Mr. Zeller, and discussed fully with Mr. Zeller all matters described and referred to in the Petition.

3. I have explained to Mr. Zeller the maximum penalty and other consequences of entering a plea of guilty described in the Petition and the attached plea agreement, and I have also explained to Mr. Zeller the applicable Federal Sentencing Guidelines.

4. I recommend that the Court accept California Shellfish Company's plea of "GUILTY."

SIGNED by me in the presence of Mr. Zeller, and after full discussion with Mr. Zeller of the contents of the Petition To Enter Plea of Guilty, and any Plea Agreement, on this 27th day of March, 2008.



Ronald H. Hoevet, OSB #75174
Of Attorneys for California Shellfish Company

ORDER ENTERING PLEA

I find that California Shellfish Company's plea of GUILTY has been made freely and voluntarily and not out of ignorance, fear, inadvertence, or coercion. I further find California Shellfish Company has admitted facts that prove each of the necessary elements of the crimes to which California Shellfish Company has pled guilty.

IT IS THEREFORE ORDERED that California Shellfish Company's plea of GUILTY be accepted and entered as requested in this Petition and as recommended in the Certificate of California Shellfish Company's attorney.

DATED this 27th of March, 2008, in open court.



Hon. Anna J. Brown
Judge, U.S. District Court